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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,934	08/07/2003	Aidan Petrie	07298.0067.NPUS01	8834
28694	7590	12/16/2004	EXAMINER	
TRACY W. DRUCE, ESQ. NOVAK DRUCE & QUIGG LLP 1615 L STREET NW SUITE 850 WASHINGTON, DC 20036			SAWHNEY, HARGOBIND S	
			ART UNIT	PAPER NUMBER
			2875	
DATE MAILED: 12/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/635,934

Applicant(s)

PETRIE ET AL.

Examiner

Hargobind S Sawhney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 10-14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Rupp (US Patent No.: 4,417,299).

Rupp ('299) discloses a flashlight 10 (Figures 1 and 5) comprising:

- a housing 14 having a wall- cylindrical shell – between a front end 64, a rear end 54 (Figure 1, column 1, lines 49-54);
- a spring actuated grip 70 attachable to the housing 14, and the spring actuated grip 70 enabling the flashlight to be hanged (Figures 1 and 5, column 2, lines 34-38);
- the grip 70 actable by one hand of the user (Figures 1 and 5);
- a base 54 serving as a foot for keeping the flashlight standing (Figure 1, column 2, lines 17 and 18);
- an elevation- other than the elevation of the base 54 – protecting the lens 64 of the flashlight (Figure 1) from breaking;
- a compartment 17 – defined by elements 14, 16, 34 and 54 – storing batteries 46 and 48 (Figure 2, column 2, lines 13 and 14);

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- a handle 42- outer cylindrical shell – adjacent the grip 70 -; the relative position of the grip 70 and the handle enabling actuation of the grip 70 (Figures 1 and 5);
- a switch 54- the element 54 functioning as the base and a switch – (Figures 1 and 5, column 2, lines 18-21) accessibly positioned near the handle 42;
- the switch 54 reachable – can be activated by rotating the element 54 – during the device in standing position (Figure 1, column 2, lines 19-23);
- the grip 70 securable to a surface of a vehicle hood or any surface of other devices (Figure 1, column 2, lines 30-44);
- a lamp element 20 positioned in the front of the flashlight 10 (Figure 1, column 1, lines 54-57); and
- an actuator – an extension opposite to the jaws of the grip 70 – tangent to the clamp (Figure 1).

3. Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Osterhout et al. (US Patent No.: 5,019,951).

Osterhout et al. ('951) discloses a flashlight 10 (Figure 1) comprising:

- a housing 12 having a wall- cylindrical shell – between a rear end and a front end bearing a light-transmitting cover, (Figure 1);
- a spring actuated grip 14 attachable to the housing 12, and the spring actuated grip 14 enabling the flashlight to be hanged (Figure 1);
- the grip 14 actable by one hand of the user (Figures 1 and 5);

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- an on-off switch 20 accessibly positioned near the handle, and on a top end of the flashlight 10 (Figure 1, column 2, lines 48 and 49); the switch 20 reachable by the one hand holding the handle 14 (Figure 1); and
- the flashlight providing an intensity of light (Figure 1, column 2, lines 51-53).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupp (US Patent No.: 4,417,299) in view of Maglica (US Patent No.: 6,457,840 B2).

Regarding Claim 15, Rupp ('299) discloses a flashlight 10 (Figures 1 and 5) comprising a compartment receiving batteries. However, Rupp ('299) does not specifically teach the batteries being rechargeable. On the other hand, Maglica (US '840 B2) discloses a flashlight 20 including rechargeable batteries 31 (Figure 1, column 5, line 37 and column 9, lines 41-44).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the flashlight of Rupp ('299) by providing rechargeable batteries as

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taught by Maglica (US '840 B2) for benefit and advantage of providing cost effective power source not requiring frequent replacements of batteries.

Regarding Claim 16, Rupp ('299) in view of Maglica (US '840 B2) discloses the flashlight 20 including a compartment – defined by the housing – receiving a plurality of batteries 31 (Figure 1, column 5, line 37 and column 9, lines 41-44).

Regarding Claim 18, Rupp ('299) discloses a flashlight 10 (Figures 1 and 5) comprising a housing receiving batteries. However, Rupp ('299) does not specifically teach the flashlight including a charge outlet. On the other hand, Maglica (US '840 B2) discloses a flashlight 20 including rechargeable batteries 31 (Figure 1, column 5, line 37 and column 9, lines 41-44) and a charge outlet 63 (Figure 10, column 7, line 37).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the flashlight of Rupp ('299) by providing the charge outlet as taught by Maglica (US '840 B2) for benefit and advantage of charging the batteries for providing cost effective power source not requiring frequent replacements of batteries.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rupp (US Patent No.: 4,417,299).

Rupp ('299) discloses a flashlight 10 (Figures 1 and 5) comprising:

- a housing 14 having a wall- cylindrical shell – between a front end 64, a rear end 54 (Figure 1, column 1, lines 49-54);
- a spring actuated grip 70 attachable to the housing 14, and the spring actuated grip 70 enabling the flashlight to be hanged (Figures 1 and 5, column 2, lines 34-38); and

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- the grip 70 actable by one hand of the user (Figures 1 and 5).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to meet the method limitations of Claim 19 by applying the teachings of Rupp ('299) as indicated above for the use of the flashlight and its gripping elements.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mele (US Patent No.: 6,517,215 B2), Maglica et al. (US Patent No.: 6,457,840 B2), Parker (US Patent No.: 6,224,235 B1), Drohan (US Patent No.: 5,103,384) and Morey (US Patent No.: 2,386,255)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.

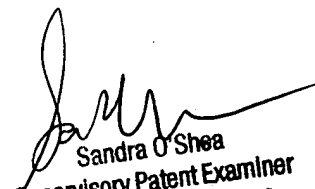
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

11/23/2004

  
Sandra O'Shea  
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